

Decision 05-01-020 January 13, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Eureka for an order to close the "J" Street Intersection crossing at Waterfront Drive and to construct a new crossing improvement at the "I" Street intersection across the tracks of the North Coast Railroad Authority.

Application 04-09-004
(Filed September 1, 2004)

O P I N I O N

Summary

This decision grants the request of The City of Eureka (City) to close one existing at-grade crossing and construct one new at-grade crossing (crossing) over the tracks of the North Coast Railroad Authority (NCRA). The new crossing will be identified as California Public Utilities Commission (CPUC) Crossing No. 104-284.55.

Discussion

The City requests authority to build an at-grade crossing across the tracks of the NCRA at the current location of an existing private crossing at the foot of I Street. The existing crossing at J Street (CPUC # 104-284.60) will be closed in conjunction with the opening of the new crossing. The project will provide improved public access to the planned Boating and Safety Instructional Center which runs along Waterfront Drive at the foot of J and K Streets.

Warning devices will consist of two Commission Standard #1-R Crossbucks with pavement markings and W10-1 advanced warning signs in both

directions approaching the crossing. Street lighting will be provided on the south side of the crossing to improve visibility for approaching vehicles.

There is currently no rail service on this line. NCRA has plans to restore service to Humboldt County and the City, but there is no set timetable at this time. Should NCRA resume service, the City will install, at its own expense, automated warning devices as prescribed by the Commission staff at the crossing.

The City states that grade separating this location is not practicable due to the hilly terrain and the proximity of Humboldt Bay.

The City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resource Code Section 21000 et seq. On May 22, 2002, the City filed a Notice of Determination with Humboldt County for the project, of which the proposed crossing is a part, and found that the crossing will not have a significant effect on the environment. A Mitigated Negative Declaration was prepared for the project. Mitigation measures were made a condition for approval of the project.

The Commission is a responsible agency for this project under CEQA (Public Resources Code Section 21000 et seq.). CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15059(b)). The specific activities that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

We have reviewed the lead agency's Notice of Determination and Negative Declaration for the project and find that it is adequate for our decision-

making purposes. Safety, transportation and noise are within the scope of the Commission's permitting process. The City's environmental documents did not identify any environmental impacts and related mitigation measures applicable to the proposed crossing portion of the project.

The Commission's Rail Crossings Engineering Section (RCES) has inspected the site and examined the need for, and safety of the crossing. RCES recommends that the requested authority sought by the City be granted for a period of two years.

Application 04-09-004 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a public highway across a railroad.

Categorization and Need for Hearings

In Resolution ALJ 176-3139 dated September 23, 2004 and published in the Commission Daily Calendar on September 24, 2004 the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3139.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on September 8, 2004. No protests have been filed.
2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct a new at-grade crossing across the tracks of the NCRA, to be identified as CPUC No. 104-284.55.
3. The project will provide improved public access to the planned Boating and Safety Instructional Center which runs along Waterfront Drive at the foot of J and K Streets.
4. Public convenience, safety and necessity require the construction of the crossing in Humboldt County.
5. There is currently no rail service on this line. NCRA has plans to restore service to Humboldt County and the City, but there is no set timetable at this time.
6. Public safety requires that the crossing be equipped with two Commission Standard No. 1-R Crossbucks, street lighting, pavement markings and advance warning signs.
7. The City is the lead agency for this project under CEQA, as amended.
8. On May 22, 2002, the City adopted a Negative Declaration with mitigation measures for the project, of which the proposed crossing is a part, and found that the crossing will not have a significant effect on the environment
9. The Commission is a responsible agency for this project, has reviewed the City's environmental documents and finds them adequate for our decision-making purposes.
10. Safety, transportation and noise are within the scope of the Commission's permitting process.

11. The City's environmental documentation did not identify any potential environmental impacts related to the crossing portion of the project.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of Eureka (City) is authorized to construct a new at-grade crossing (crossing) across the tracks of the North Coast Rail Authority (NCRA) at the location as shown on the plans attached to the application, identified as California Public Utilities Commission (CPUC) Crossing No. 104-284.55.
2. The City will close the existing crossing at J Street (CPUC Crossing No. 104-284.60).
3. The City shall install two Commission Standard No. 1-R Crossbucks, street lighting, pavement markings and advance warning signs.
4. Should NCRA resume service, the City will install, at its own expense, automated warning devices as prescribed by Commission staff.
5. The City shall comply with all applicable General Orders, Manual on Uniform Traffic Control Devices, including the California Supplement, and CalTrans Highway Design Manual.
6. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the City and NCRA (parties). Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

7. Within 30 days after completion of this project, NCRA shall notify Rail Crossings Engineering Section in writing by submitting a completed Standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations) that the authorized work is completed.

8. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

9. This application is granted as set forth above.

10. Application 04-09-004 is closed.

This order becomes effective 30 days from today.

Dated January 13, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners